

## **Tribal Relations**

### **10.1 Introduction**

Under the authority of the Forest Practices Act, the Board's rules, in part, promote cooperative relationships and agreements with the tribes and direct DNR Forest Practices staff to consult and cooperate with affected tribes when developing and implementing many parts of the Forest Practices program (WAC 222-12-010). The rules define "affected Indian tribe" as "any federally recognized tribe that requests in writing information from DNR on forest practices applications and notification filed on specific areas" (WAC 222-16-010).

Washington's 29 federally recognized Indian tribes are key cooperators in the Forest Practices program. Because of the sovereign status of these tribal governments, the relationship between DNR forest practices and the tribes is government-to-government.

These tribes in Washington, as well as some tribes in Oregon and Idaho, participate in the forest practices program to varying degrees. Tribes are members of Forests and Fish Policy, CMER committees, the Board's TFW Cultural Resources Committee, and the Small Forest Landowner Advisory Committee. Additionally, tribal representatives work with staff from DNR's forest practices program and other agencies and organizations to draft forest practices rules and Board Manual guidelines, review FPAs and notifications and alternate plans, provide technical on-site expertise in DNR's interdisciplinary team reviews, and complete water and wetland typing.

This chapter provides information on two areas related to tribal relations. The first is an update on the required forest landowner/tribal meetings reporting process. The second is an update on the TFW Cultural Resources Committee.

### **10.2 Landowner/Tribal Meetings and WAC 222-20-120 Update**

One of the reporting elements in the FPHCP is the landowner-tribe meetings required by WAC 222-20-120 and the process improvements being made by the forest practices program to more consistently implement this rule.

The rule requires the forest practices program to notify an "affected Indian tribe" of all applications on the specific areas that have been identified by the tribe. Additionally, when an application involves a cultural resource, the rule requires the forest landowner to "meet with the affected tribe(s) with the objective of agreeing on a plan for protecting the archaeological or cultural value."

The forest practices program notifies a tribe of the applications the tribe is interested in via the Forest Practices Application Review System (FPARS). FPARS is an internet based review and permitting system for Washington's forest practices permits. The tribe simply signs up for FPARS, and then automatically receives all applications and notifications that meet the parameters of the tribe's FPARS reviewer profiles. Currently, all but a couple of the federally recognized tribes in Washington have chosen to review forest practices applications and notifications.

In 2006 and 2007, the forest practices program conducted an audit of DNR region forest practices office procedures using a random sample of applications. One of the audit questions was whether the required meetings between landowners and affected Indian tribes were documented as having

taken place. The outcome of the audit showed a lack of consistency in documenting confirmation that the required meetings took place.

The forest practices program and the Services have discussed the goal of increasing consistency of documentation for landowner-tribe meetings. The program is working to meet this goal in two ways: (1) updating guidance on implementing WAC 222-20-120 and (2) determining a tracking method to more consistently document that required meetings are held. Once implemented, the tracking method will allow improved annual reporting on the program's implementation of the landowner-tribe meeting requirement.

### **10.3 Update on Timber, Fish and Wildlife Cultural Resources Committee**

Originating as part of the 1987 TFW organization, today's TFW Cultural Resources Committee (Committee) includes tribal representatives (especially Puyallup, Yakama, Suquamish, Lummi and Quinault), forest landowners representing Washington Forest Protection Association (WFPA) and Washington Farm Forestry Association (WFFA), and state agency representatives from DNR-Forest Practices, DNR-State Lands, and the Department of Archaeology and Historic Preservation. In 2001, the Forest Practices Board asked the Committee to do the staff work and the negotiations on cultural resources issues for the Board. This work included a multi-caucus proposal to address the cultural resources commitments in Appendices G and O of the Forest and Fish Report, specifically a watershed analysis cultural resources module and a cultural resources plan.

In May 2005, the Board approved and adopted the Cultural Resources Committee's proposed cultural resources watershed analysis module and rules that implement the module. The module and the rules are appendices of the Committee's collaboratively developed Cultural Resources Protection and Management Plan (the Plan). The Plan is incorporated into the FPHCP as Appendix I. Since then, the forest practices program and the Committee have continued to implement additional commitments of the Plan.

Three commitments in the Plan specific to the forest practices program relate to notice to tribes, landowner-tribe meetings, and classification of applications and notifications involving cultural resources.

First, as previously discussed in this report, the program provides automatic notice to tribes of applications and notifications of interest via FPARS. This notice is an on-going process, and involves tribes' updates on their designated applications and notifications of interest and their staff reviewers.

Second, DNR is in the process of updating their program guidance on cultural resources rules.

Third, to assist the Department of Archaeology and Historic Preservation (DAHP) in updating their archaeological and historic sites database, the program has provided specific funding in state fiscal year 2006-2007 through an Interagency Agreement with DAHP. The program uses DAHP's database to appropriately classify applications and notifications involving cultural resources under WAC 222-16-050.

Another program-specific commitment in the Plan involves the Forest Practices Application and Notification Form. In January 2005, the program added an appendix of the Plan to the Forest Practices Application and Notification form and instructions, which included a question and information on cultural resources. The purpose of the question is to make forest landowners aware of possible cultural resources issues with local tribes. Instruction information provides field-specific hints on areas likely to contain cultural resources, as well as contact resources for tribes and DAHP.

Additionally, the Committee has worked on three other major issues.

- The commitment to address the tribes' confidentiality concerns about tribal cultural resources came to fruition in the form of Senate Bill (SB) 6429. This legislation adds to the Public Records Act an exemption from disclosure of tribal cultural resources information acquired through conducting the cultural resources watershed analysis module. RCW 42.56.300 became effective July 1, 2007.
- The Cultural Resources Education Subcommittee is developing a cultural resources education program for small forest landowners. The forest practices program is represented on the Education Subcommittee and has funded and led research contracts.
- The Committee is also working on the Board's historic sites rulemaking effort to address inconsistencies in the current rules. The Committee is recognized by the Board as the group of expertise on this issue.